

Bureau of Indian Affairs, Interior

§216.4

surface mining of, such minerals, adequate measures be taken to avoid, minimize, or correct damage to the environment—land, water, and air—and to avoid, minimize, or correct hazards to the public health and safety. The regulations in this part prescribe procedures to that end.

§216.2 Scope.

(a) Except as provided in paragraph (b) of this section, the regulations in this part provide for the protection and conservation of nonmineral resources during operations for the discovery, development, surface mining, and onsite processing of minerals under permits or leases issued pursuant to statutes pertaining to Indian lands including but not limited to the following statutes or amendments thereto:

The Act of June 28, 1906 (34 Stat. 539);

The Act of May 27, 1908 (35 Stat. 312);

The Act of March 3, 1909 (35 Stat. 781, 25 U.S.C. 396);

The Act of May 1, 1936 (49 Stat. 1250);

The Act of June 26, 1936 (49 Stat. 1967);

The Act of May 11, 1939 (52 Stat. 347, 25 U.S.C. 396a–f, and 5 U.S.C. 301).

(b) The regulations in this part do not cover the exploration for oil and gas or the issuance of leases, or operations thereunder, nor minerals underlying lands, the surface of which is not owned by the owner of the minerals.

(c) The regulations in this part shall apply only to permits or leases issued subsequent to the date on which these regulations become effective and which are subject to the approval of the Secretary of the Interior or his designated representative.

§216.3 Definitions.

As used in the regulations in the part:

(a) *Superintendent* means the superintendent or other officer of the Bureau of Indian Affairs having jurisdiction under delegated authority, over the lands involved.

(b) *Mining supervisor* means the Regional Mining Supervisor, or his authorized representative, of the Geological Survey authorized as provided in 30 CFR 211.3 and 231.2 to supervise operations on the land covered by a permit or lease.

(c) *Overburden* means all the earth and other materials which lie above a natural deposit of minerals and such earth and other materials after removal from their natural state in the process of mining.

(d) *Area of land to be affected or area of land affected* means the area of land from which overburden is to be or has been removed and upon which the overburden or waste is to be or has been deposited, and includes all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to an operation and for haulage.

(e) *Operation* means all of the premises, facilities, roads, and equipment used in the process of determining the location, composition or quality of a mineral deposit, or in developing, extracting, or onsite processing of a mineral deposit in a designated area.

(f) *Method of operation* means the method or manner by which a cut or open pit is made, the overburden is placed or handled, water is controlled or affected and other acts performed by the operator in the process of exploring or uncovering and removing or onsite processing of a mineral deposit.

(g) *Holder or operator* means the permittee or lessee designated in a permit or lease.

(h) *Reclamation* means measures undertaken to bring about the necessary reconditioning or restoration of land or water that has been affected by exploration or mineral development, mining or onsite processing operations, and waste disposal, in ways which will prevent or control onsite and offsite damage to the environment.

§216.4 Technical examination of prospective surface exploration and mining operations.

(a)(1) In connection with an application for a permit or lease, the superintendent shall make, or cause to be made, a technical examination of the prospective effects of the proposed exploration or surface mining operations upon the environment. The technical examination shall take into consideration the need for the preservation and protection of other resources, including cultural, recreational, scenic, historic, and ecological values; and control of